

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Ensuring Customer Premises
Equipment Backup Power for Continuity of
Communications

PS Docket No. 14-174

Technology Transitions

GN Docket No. 13-5

Policies and Rules Governing
Retirement Of Copper Loops by Incumbent
Local Exchange Carriers

RM-11358

Special Access for Price Cap Local
Exchange Carriers

WC Docket No. 05-25

AT&T Corporation Petition for
Rulemaking to Reform Regulation of
Incumbent Local Exchange Carrier Rates for
Interstate Special Access Services

RM-10593

**REPLY COMMENTS OF THE PEOPLE OF THE STATE OF ILLINOIS
BY ATTORNEY GENERAL LISA MADIGAN AND THE PEOPLE OF THE
STATE OF NEW YORK BY ATTORNEY GENERAL ERIC SCHNEIDERMAN
NOTICE OF PROPOSED RULEMAKING AND DECLARATORY RULING**

The People of the State of Illinois
By Lisa Madigan, Attorney General
100 West Randolph Street
Chicago, Illinois 60601
Telephone: (312) 814-1104

The People of the State of New York
By Eric T. Schneiderman, Attorney General
120 Broadway
New York, New York 10271
Telephone: (212) 416-6189

TABLE OF CONTENTS

I. INTRODUCTION	1
II. UNIVERSAL SERVICE principles should guide the transition to internet protocol telephone service.....	2
A. Universal Service Principles Are the Cornerstone of Federal and State Telecommunications Policy.	2
B. The Commission Should Review Requests To Discontinue Copper Service In Light Of Whether Substitute Service Satisfies Universal Service Goals.	4
C. Universal Service Principles Should Guide the Commission’s Review Of Copper Retirement.	6
III. UNIVERSAL SERVICE’s reliable ACCESS TO EMERGENCY SERVICES should set the standard in the transition.	8
A. Consumers Need To Be Informed That, Unlike Traditional Telephone Service, The New Technologies, Such As VoIP, Require Back-Up Power To Operate In A Power Outage.	9
B. Wireless Reliability and 911 Location Accuracy Still Are Not As Reliable As Traditional Telephone Service.....	10
C. The Effect Of The Loss of Automated Location Information If Traditional Telephone Service Is Discontinued Should Be Considered In Section 214 Petitions.	11
D. Reliable and Standardized Back-up Power to Access to Emergency Services Should Be Required.	12
E. Changes in Telephone Power Capabilities Require Extensive Consumer Education	14
IV. SERVICE QUALITY PROBLEMS AFFECTING SERVICES THAT RETAIN COPPER INFRASTRUCTURE REQUIRE THAT COPPER RETIREMENT AND OTHER TECHNOLOGICAL CHANGES BE INCLUDED IN THE SECTION 214 PROCESS.	16
A. Examples of Service Quality Deficiencies And Price Increases Associated With The Switch To Digital Telephone Demonstrate The Need For Commission Oversight Of The Transition.	17
B. Service Quality Reporting Is Needed To Assess The Extent Of Service Quality Problems.	19
V. CONSUMER PROTECTIONS ARE CRUCIAL DURING THE TRANSITION.	20
VI. CONCLUSION.....	24

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Ensuring Customer Premises
Equipment Backup Power for Continuity of
Communications

PS Docket No. 14-174

Technology Transitions

GN Docket No. 13-5

Policies and Rules Governing
Retirement Of Copper Loops by Incumbent
Local Exchange Carriers

RM-11358

Special Access for Price Cap Local
Exchange Carriers

WC Docket No. 05-25

AT&T Corporation Petition for
Rulemaking to Reform Regulation of
Incumbent Local Exchange Carrier Rates for
Interstate Special Access Services

RM-10593

**REPLY COMMENTS OF THE PEOPLE OF THE STATE OF ILLINOIS
BY ATTORNEY GENERAL LISA MADIGAN AND THE PEOPLE OF THE
STATE OF NEW YORK BY ATTORNEY GENERAL ERIC SCHNEIDERMAN
NOTICE OF PROPOSED RULEMAKING AND DECLARATORY RULING**

I. INTRODUCTION

The People of the State of Illinois by Attorney General, Lisa Madigan and the People of the State of New York by Attorney General Eric Schneiderman file these reply comments in response to the Commission's Notice of Proposed Rulemaking and Declaratory Ruling ("NPRM"), and the comments filed in response, addressing the effect that the transition to Internet Protocol telephone service is having on universal service, consumers' use of the network, network capabilities in emergency conditions, and competition.

The initial comments spanned a wide range of interests from the traditional telephone companies to large and small cable operators, to emergency responders, consumers, public utility commissions and public interest representatives. In response, these comments will address issues of primary concern to the residents in Illinois and New York. Failure to address an issue raised by another party in its Initials Comments should not be seen as agreement or a waiver of any interest or opposition to those comments.

II. UNIVERSAL SERVICE PRINCIPLES SHOULD GUIDE THE TRANSITION TO INTERNET PROTOCOL TELEPHONE SERVICE.

A. Universal Service Principles Are the Cornerstone of Federal and State Telecommunications Policy.

The NPRM cites universal service as one of the core principles embodied in federal communications law.¹ Indeed, Congress established the Federal Communications Commission (“Commission”):

For the purpose of regulating interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all the people of the United States, without discrimination on the basis of race, color, religion, national origin, or sex, a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges, for the purpose of the national defense, for the purpose of promoting safety of life and property through the use of wire and radio communications.²

This goal has historically been met by telephone companies accepting the obligation to provide service to all locations in a defined service area.³ The state-imposed obligation to provide service in a defined service area is consistent with federal universal service policy, and it has

¹ NPRM at para.1.

² 47 U.S.C. §151.

³ 220 ILCS 5/8-101 (“A public utility shall, upon reasonable notice, furnish to all persons who may apply therefor and be reasonably entitled thereto, suitable facilities and service, without discrimination and without delay.”); 220 ILCS 5/13-103(a) (“[Telecommunications] services should be provided as widely and economically as possible in sufficient variety, quality, quantity, and reliability to satisfy the public interest.”).

been key in assuring that all residents have access to telecommunication networks. Even as Congress provided for competition in the provision of telephone service in the Telecommunications Act of 1996, it provided federal support for universal service⁴ and expressly recognized state authority over telephone service.⁵

While universal service goals are the bedrock of federal telecommunications policy, many of the initial comments failed to directly confront the relationship between the retirement of copper telephone facilities (or the switch to IP telephone service) and available telecommunications services. Historically, local telephone companies have the obligation to provide a wired telephone connection to all locations in their service territory. However, the plans of the two major incumbents -- AT&T and Verizon -- do not include preserving wired telephone service to all of their currently served locations. For example, AT&T has represented to this Commission that its Uverse investment will only reach 75% of the locations in its current service area.⁶ Verizon's fiber build-out reaches significantly less than 100% of the locations in its traditional service territory,⁷ yet it has indicated an intention to abandon copper entirely.⁸

AT&T serves locations in 22 states, and Verizon provides wireline telephone service in 12 states, although it is proposing to sell its service areas in California and Texas. The

⁴ See 47 U.S.C. 254(b).

⁵ 47 U.S.C. §261(b) and (c).

⁶ See *Technology Transitions*, GN Docket No. 13-5; *AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition*, GN Docket No. 12-353, AT&T Proposal for Wire Center Trials at 6 ("Our wireline IP network will reach approximately 75 percent of the customer locations in our 22-state wireline footprint, with many experiencing significantly faster speeds.").

⁷ See, e.g., Comments of the Communications Workers of American ("CWA") at 23 and Attachment A (cities of Boston, Baltimore, Albany and Syracuse do not have access to Verizon's all fiber network). A granular map of the Verizon and Frontier service areas showing FIOS availability to customers in 25% of location increments is available at: <http://fiberforall.org/fios-map/> (accessed February 27, 2015).

⁸ See Thompson Reuters Street Events Edited Transcript of June 21, 2012 1:00 P.M. G.M.T. interview of Verizon Chairman and CEO Lowell McAdam at the Guggenheim Securities Symposium at 8. http://www.media-alliance.org/downloads/Verizon_Kill_Copper.pdf

Commission should expressly address the effect that these plans to only partially modernize their networks could have universal service principles.

B. The Commission Should Review Requests To Discontinue Copper Service In Light Of Whether Substitute Service Satisfies Universal Service Goals.

The Commission asks: “what would constitute an adequate substitution for retail services that a carrier seeks to discontinue, reduce, or impair in connection with a technology transition (e.g., TDM to IP, wireline to wireless).”⁹ This question must be considered in light of some carriers’ apparent intention to stop offering wireline service – TDM and IP, copper and fiber – in significant areas of the country. When no wireline option is available, reliable and affordable access to both voice services and the Internet may be compromised. If wireline options are lost, decreased wireless reliability and higher prices mean that consumers may be left paying substantially more for substantially less.¹⁰

In assessing the quality of substitute service, the attributes identified by Public Knowledge, and listed by the Commission in paragraph 94 are a good starting point.¹¹ However, the Commission should add affordability to that list. Federal telecommunications policy has long been premised on ubiquitous telephone service at just, reasonable and affordable prices.¹²

⁹ NPRM at para. 96.

¹⁰ The Commission determined that the median amount of data downloaded in 2013 was 47.58 gigabytes. FCC, Measuring Broadband America 2014, http://www.fcc.gov/reports/measuring-broadband-america-2014#Data_Consumption (using data from September, 2013)(accessed March 3, 2015). While wireline data plans often include 150-250 gigabytes, wireless data plans are considerably more limited, ranging from presubscribed amounts of 300 megabytes for \$20 plus a \$20.00 device access charge to 50 gigabytes for \$375.00 per month a \$20.00 device access charge with additional per gigabyte charges of \$15.00. AT&T, AT&T Mobile Share Value Plans. Compare <https://www.att.com/shop/internet.html?tab=2> (“see offer details”) and <https://www.att.com/shop/wireless/plans/mobileshare.html> (accessed March 4, 2015). Verizon’s Single Line wireless plan provides 1 gigabyte for \$45-60.00 and an additional \$15.00 per 500 MB over that allowance and 2 GB plans for \$60-75 plus an additional \$15 per 1 GB over that allowance. See Choose Your Single Line Plan, <http://www.verizonwireless.com/wcms/consumer/shop/shop-data-plans/single-line-data-plans.html>

¹¹ NPRM at para. 94; Comments of Public Knowledge, *et al.*, at 9.

¹² 47 U.S.C. §151 (“For the purpose of regulating interstate and foreign commerce in communication by wire and radio so as to make available ... Nation-wide, and world-wide wire and radio communication service with adequate facilities at **reasonable charges**”) (emphasis added); 47 U.S.C. §201(b)(all charges shall be “just and reasonable.”); 47 U.S.C. §254(b)(1).

In Illinois, while telephone service providers have been largely relieved of price regulation, state law retains “safe harbor” rates so that consumers can be assured that they can subscribe to landline telephone service at rates no higher than the ones in place when price restrictions were removed.¹³ This important consumer protection promotes universal service and affordability. Discontinuation of traditional telephone service, particularly removal of wireline service options, would disadvantage Illinois consumers if this important protection were lost.

Availability of wireline service also implicates consumer access to more affordable broadband services. Wireline broadband services are usually priced lower than wireless broadband services. For example, one major carrier, AT&T, includes packages of 3, 7 or 10 GB per month but adds \$15.00 per GB over that amount.¹⁴ Some wireless “unlimited data” plans ramp down or “throttle” speeds by decreasing speeds from 4G levels to 2G or 3G levels when the first block of usage is reached.¹⁵ By contrast, AT&T offers wired plans of 150 GB per month over DSL and 250 GB per month over its Uverse system, charging \$10 per 50 GB beyond the subscribed amount.¹⁶ The wired download allowance is 50 to more than 80 times greater than the wireless package for significantly less money.¹⁷ In areas where a carrier is proposing to

¹³ 220 ILCS 5/13-506.2(d).

¹⁴ See footnote 8 above; <http://www.att.com/shop/wireless/data-plans.html> (presubscribing to 50 GB priced at \$375 per month) (accessed March 2, 2015)

¹⁵ “AT&T has the right to impose additional charges if you use more than 5 GB in a month.” AT&T, Wireless Customer Agreement. <http://www.att.com/legal/terms.wirelessCustomerAgreement.html#whatAreTheGenTermsApplyDataConnectPlans> (accessed March 4, 2015). T-Mobile shifts consumers from 4G service to the much slower 2G service after 1 GB monthly data allocation is reached. <https://t-mobile.com/tools/MBCalculator.aspx> (click on i symbol (information) in estimated monthly data usage link).

¹⁶ “High Speed Internet price includes 150GB of data/mo. Additional \$10 charger per each 50GB of data usage in excess of data plan.” AT&T, Internet Residential Terms and Conditions. <http://www.att.com/shop/internet/internet-service.html> (click on “see offer details”) (accessed March 4, 2015); “Price incl. 250 GB of data/mo. Add'l \$10 charger per 50 GB of data usage in excess of data plan.” AT&T, U-verse Offer Details. <http://www.att.com/shop/en/internet.html?tab=2> (click on “see offer details”) (accessed March 4, 2015).

¹⁷ The FCC reported median data usage as 47 GB per month based on a September, 2013 study. Measuring Broadband America 2014, http://www.fcc.gov/reports/measuring-broadband-america-2014#Data_Consumption (using data from September, 2013)(accessed March 3, 2015).

provide wireless Internet access in place of wired Internet access, in keeping with universal service principles, consumers should be assured of an equivalent and affordable alternative to the wired Internet access services they currently enjoy.

C. Universal Service Principles Should Guide the Commission's Review Of Copper Retirement.

Many of the initial comments addressed the Commission's proposed rules for notifying competitive carriers and consumers about changes in the network associated with the move by incumbent telephone companies to digital or Internet Protocol systems.¹⁸ However, not all commenters address the continued availability of wired telephone service after the incumbent discontinues copper or TDM based service. The retirement of copper and TDM systems will affect consumers and competition very differently if (1) service is replaced by wired digital or IP systems and (2) the incumbent provider no longer offers a wired option.

The Commission should recognize that these two options present different challenges. Consumers with no wired telephone or wired broadband option, or who are limited to a single telephone and broadband option through a cable provider, will face a major change in service availability. Consumers whose choices are further limited solely to a wireless telephone and wireless broadband connection face call quality and reliability issues (including dropped calls)¹⁹ and high prices, especially for broadband usage.²⁰ In either case, where wired options are reduced, available functionalities may change, bundling requirements may burden consumers with complex buying decisions, telephone service prices may increase, and competition and choice may diminished. Where wired options are lost due to copper retirement or the transition

¹⁸ See, e.g., Comments of CWA at 6-7; Comments of Public Knowledge, et al., at 9; Comments of ADT d/b/a ADT Security Services at 14; Comments of NASUCA at 4; Comments of the Ad Hoc Telecommunications Users Committee at 7-9.

¹⁹ See, e.g., Comments of CWA at 15 (constant availability); Comments of Public Knowledge, et al., at 9 referring to "call persistence."

²⁰ See footnote 10 above.

to Internet Protocol (“IP”) telephone service, the Commission should adopt different and enhanced standards for reviewing proposed retirements of legacy networks and preserve the option to either (1) deny the carrier’s request to discontinue service or (2) expressly recognize state authority to deny a carrier’s request to discontinue service. The Comments of the Communications Workers of American (“CWA”), that National Association of State Utility Consumer Advocate (“NASUCA”), AARP, and the Ad Hoc Telecommunications Users Committee recognize these issues.²¹

The fundamental goal of both federal law,²² and many state laws,²³ is that telephone service be ubiquitous and affordable. Yet, as Public Knowledge pointed out, the regulatory status of Voice over Internet Protocol telephone service (VoIP) is uncertain, with the major carriers insisting that it is beyond the reach of regulatory protections.²⁴ When consumers are left with only one choice for wired telephone and broadband service, and telephone service is VoIP service that has not been subject to state local service regulation, the problem of monopoly rents arises, particularly if the carrier’s pricing structure requires bundling of services (telephone, video and internet) in order to receive average prices. For example, in searching for telephone service in Chicago, Illinois, AT&T’s web site indicates that stand-alone Uverse telephone service is not available unless it is bundled with at least one other service.²⁵

²¹ Comments of CWA at 11; Comments of NASUCA at 17-19; Comments of AARP at 40-41; Comments of Ad Hoc Telecommunications Users Committee at 7-8.

²² 47 U.S.C. §254(b)(1)(“ Quality services should be available at just, reasonable, and affordable rates.”).

²³ See 220 ILCS 5/13-103(a)(“ telecommunications services should be available to all Illinois citizens at just, reasonable, and affordable rates and that such services should be provided as widely and economically as possible in sufficient variety, quality, quantity and reliability to satisfy the public interest.”); 220 ILCS 5/13-506.2(d)(statutorily priced local services must be available to Illinois consumers).

²⁴ See Comments of Public Knowledge at 8-9; Comments of AT&T at 42.

²⁵ The following message appears when an attempt was made to shop for Uverse telephone service without Internet service: **U-verse Voice requires at least one other U-verse product.** To keep U-verse as cost effective as possible for our customers, U-verse Voice has to be bundled with at least one other U-verse product like Internet or TV. **We've deselected U-verse Voice for you.** <https://www.att.com/shop/u-verse/offers.html> when Uverse Internet service deselected (accessed March 2, 2015) (bold in original).

With the Commission's correct decision on February 26, 2015 to return Internet access services to Title II, the option to protect consumer access to the telecommunications network in monopoly circumstances is enhanced.²⁶ However, at this point, in areas where the transition to IP networks results in consumers losing wired telephone service regulatory protections and choice, the Commission should adopt different and enhanced standards for reviewing proposed retirements of legacy networks as recommended in the Comments of CWA and other parties.²⁷

III. UNIVERSAL SERVICE'S RELIABLE ACCESS TO EMERGENCY SERVICES SHOULD SET THE STANDARD IN THE TRANSITION.

Most commenters acknowledge the widespread public expectation that subscribers to traditional telephone service can use their telephone to reach emergency services even when there is a local power outage.²⁸ When copper or TDM service is replaced by wireless service, and no wired option is available, how can the Commission and the local community be sure that the wireless infrastructure will function reliably in an emergency? A wireless system that serves as a complement to wired telephone service may lack sufficient capacity to serve all demand in emergency conditions if traditional wired service is discontinued.

Key consumer public safety concerns are (1) a working line in the event of a power outage; (2) a clear signal so that the message is understood and not dropped; and (3) the assurance that the emergency responders have as much information as possible, such as automatic location information. In reviewing requests to discontinue copper or TDM service,

²⁶ See <http://www.fcc.gov/document/fcc-adopts-strong-sustainable-rules-protect-open-internet> (accessed March 2, 2015)(Written order pending).

²⁷ Comments of CWA at 8-12; Comments of the Ad Hoc Telecommunications Users Committee at 7.

²⁸ See, *e.g.*, Comments of Public Knowledge at 21; Comments of CWA at 21; Comments of AT&T at 16.

the Commission should address how to assure that these attributes continue to be available irrespective of the technology underlying telephone service.²⁹

A. Consumers Need To Be Informed That, Unlike Traditional Telephone Service, The New Technologies, Such As VoIP, Require Back-Up Power To Operate In A Power Outage.

Access to the telecommunications networks in emergencies differs across technologies. Traditional TDM service presently offers the most reliable access to the network in power outages because premises power is not required. If equivalent access is not available with other technologies, carriers should conspicuously inform potential customers. Because carriers may be reluctant to advertise diminished service,³⁰ the Commission should recognize this service deficiency, adopt a public information campaign so that the public understands their options, and direct carriers to consistently and publicly inform residents when new service requires additional equipment to access emergency services in a power outage. This service deficiency exists whether digital or VoIP service is offered by a cable television operator, (e.g. Comcast, Charter, Time Warner), an “over the top” VoIP provider, a traditional telephone company using digital technology over copper facilities (AT&T), or a carrier using fiber in place of copper (Verizon).

The ability of voice telephony provided over IP networks to withstand sudden, high demand is not established. Additionally, in many states, due to regulatory uncertainty, carriers may resist state efforts to subject VoIP infrastructure to the same state back-up power, capacity, and service quality requirements that govern traditional incumbent networks. As networks transition away from TDM or copper, back-up network requirements, capacity, and service quality standards may be necessary on the federal or the state level so that consumers are

²⁹ See NPRM at para.32

³⁰ Some carriers asserted that consumers no longer expect to be able to access emergency services in a power outage or choose not to obtain back-up batteries. Comments of AT&T at 1, 5; Comments of Verizon at 17-18. Based on the assumption that consumers do not value back-up power, these carriers may not emphasize the need for back-up power disclosures. See footnotes 9, 13, and 39 for inadequacy of web site and point of sale disclosures.

guaranteed a baseline level of service reliability in emergency situations and no carrier can cut costs at the expense of emergency preparedness. In their Comments, CWA, AARP, Public Knowledge and others recommend that the Commission revive its service quality reporting to include all types of telephone service, regardless of technology, to assure that the reliability and service quality of the new networks are equivalent to incumbent networks.³¹

B. Wireless Reliability and 911 Location Accuracy Still Are Not As Reliable As Traditional Telephone Service.

A well-maintained copper landline will transmit a clear easily understood voice signal. By contrast, wireless service may become overloaded during an emergency, leading to signals that break-up, become unintelligible, drop all together, or fail to transmit all information necessary to provide location information.³² The Commission should also consider that while most emergency agencies have upgraded to E911 capability to handle wireless 911 calls, given the local nature of 911 systems, there can be considerable variation in agency capabilities within and among states.³³ In reviewing requests to discontinue traditional wireline service in an area, the Commission should assure both that (1) the wireless systems serving the area have sufficient network capacity and locational accuracy to serve all locations and (2) that the local emergency agency has the necessary capability to handle increased E911 calls.

³¹ See Comments of CWA at 34; Comments of AARP at 6; Comments of Public Knowledge at 31;

³² The Commission's February 3, 2015 Fourth Report and Order in the Matter of Wireless 911 Location Accuracy Requirements recognizes that the transition to fully equivalent wireless 911 service is still several years away, with location accuracy goals increasing from 40% of 911 calls transmitting accurate locations within two years, increasing to the goal of 80% within six years. *In the Matter of Wireless 911 Location Accuracy Requirements*, PS Docket 07-114, Fourth Report and Order at paras. 6, 25 (Feb. 3, 2015).

³³ See, e.g., Illinois Commerce Commission, 2014 – 911 Status Report at 53 (Wireless 911 Status), <http://www.icc.illinois.gov/911/> (accessed March 5, 2015); Comments of Texas 911 Alliance at 4.

C. The Effect Of The Loss of Automated Location Information If Traditional Telephone Service Is Discontinued Should Be Considered In Section 214 Petitions.

Today a landline telephone call to an emergency center is accompanied by “ANI and ALI” information. The emergency call center automatically receives the number making the call (ANI) and the location of that number, specifically the premises address (ALI). In a high-rise or other multi-unit building, the address will identify the exact unit which the line serves.³⁴ This automated information has developed along the growth of E911 Systems.³⁵

The information automatically provided to emergency centers may be more limited over a VoIP or wireless signal. Highly publicized failures of 911 calls made over VoIP service to relay accurate locations³⁶ have rightly led to rules requiring VoIP service to include a reliable 911 connection.³⁷ Even with these rules, however, the Commission cautions consumers that VoIP does not operate like traditional telephone service,³⁸ demonstrating the need for additional educational efforts.

Wireless 911 calls may also provide more limited information to emergency agencies. If the emergency call center has not been updated, the location of 911 wireless callers, even if the wireless service is from a fixed location, may not be displayed in sufficient detail to enable the emergency responders to locate the caller if the system is overloaded, a network-based carrier

³⁴ ³⁴ See *In the Matter of Wireless 911 Location Accuracy Requirements*, PS Docket 07-114, Fourth Report and Order at footnote 131 (Feb. 3, 2015).

³⁵ VoIP Info, e911. <http://www.voip-info.org/wiki/view/e911> (accessed March 6, 2015).

³⁶ See, e.g., http://news.cnet.com/Deadly-delay-on-Vonage-911/2100-1037_3-5700493.html (May 9, 2005)(Florida); <http://www.911dispatch.com/2011/08/22/lawsuit-filed-in-voip-911-incident-woman-died/> (Aug. 22, 2011); <http://www.911dispatch.com/2011/08/22/lawsuit-filed-in-voip-911-incident-woman-died/> (May 1, 2008)(Canada).

³⁷ See 47 C.F.R. §9.1 *et seq.*; *First Report and Order and Notice of Proposed Rulemaking*, 20 FCC Rcd 10245 (2005), *aff'd sub nom Nuvio Corp. v. FCC*, 473 F.3d 302 (D.C. Cir. 2007).

³⁸ See <http://www.fcc.gov/guides/voip-and-911-service>

does not have sufficient resources to calculate the location, or the premises interferes with the wireless signal.³⁹

Further, as pointed out by the City of New York and various 911 Administrators in their Comments, some agencies or agencies with limited budgets still need to upgrade their systems to accommodate the new systems, whether they are wireless or digital.⁴⁰ Differences in local capabilities to handle wireless or digital calls should be considered whenever a wired carrier seeks to eliminate wired telephone service and replace it with digital or wireless telephone service.

D. Reliable and Standardized Back-up Power to Access to Emergency Services Should Be Required.

Reliable, universal access to emergency services has been a success story that the telecommunications industry should preserve irrespective of technology. When all telephone service providers are required to offer the same reliable, high quality access to emergency services, no carrier can disadvantage consumers by cutting their costs associated with providing access to emergency services.

The Commission has asked whether back-up power requirements should be standardized.⁴¹ Several commenters support standardizing back-up battery requirements, although the details of their proposals vary.⁴² Enabling consumers to prepare themselves for

³⁹ See *In the Matter of Wireless 911 Location Accuracy Requirements*, PS Docket 07-114, Fourth Report and Order at paras. 6, 25 (Feb. 3, 2015)(noting differences between indoor and outdoor locational accuracy; vertical and horizontal information accuracy only required of 40% of calls within still being deployed); Footnote 36 above.

⁴⁰ Comments of New York City at 4 (City's emergency systems 'at different stages of evolution.'); Comments of the National Association of State 911 Administrators at 3 ("the nation's PSAPs are not all going to be in the same place in terms of their migration to IP based 911 systems"); Comments of the Texas 911 Alliance at 4-5 (911 centers may need up to 36 months to adjust to replace equipment necessary for technology transitions).

⁴¹ NPRM at paras. 32-35.

⁴² See, e.g., Comments of CWA at 15; Comments of Public Knowledge *et al.* at 26; Comments of AARP at 19-20; Comments of National Association of State 911 Administrators at 2; Comments of ADT LLC d/b/a ADT Security Systems at 5; Comments of the Rural Broadband Policy Group at 3; Comments of Environment and Energy Policy Group at 3.

emergencies and avoiding public confusion should be fundamental Commission goals.⁴³ To that end, back-up power requirements should be the same whether the consumer uses a wireless mobile phone, a wireless “home phone” or fixed or nomadic VoIP. This will enable the Commission, public safety agencies, and the carriers to embark on a consistent public information campaign in an effort to change customer expectations over time.⁴⁴

The Commission has suggested back-up power for customer premises equipment (CPE) sufficient for a specific number of stand-by hours.⁴⁵ Before any standard is adopted, however, stand-by time should be translated into talk time.⁴⁶ Stand-by time can be affected by many factors – this makes consumer education and standardization critical. For CPE provided by the carrier, the carrier should be required to conspicuously display both stand-by and talk time in the event the back-up power source is needed. Back-up power sources should be standardized so that readily available equipment can be used and supplemented if consumers want longer back-up times.

Mobile wireless service ordinarily includes battery capability as one of many hand set descriptors. When mobile wireless is used in place of copper or VoIP wired service, battery life takes on more significance. A public education campaign to alert wireless-only consumers of the advantages of redundant battery sources will allow consumers to make informed decisions about their needs. A national information campaign similar to the digital television (DTV) transition campaign that is independent of the carriers is preferable to learning about this issue only as part of the panoply of point-of-sale disclosures.⁴⁷

⁴³ See NPRM at para. 32 (important that responsibility for backup power be delineated; will a baseline requirement for backup power “promote smooth technology transitions?”); See also Comments of AARP 20 -22 (benefits of standardization).

⁴⁴ See AARP Initial Comments at 20 -22

⁴⁵ NPRM at para. 35.

⁴⁶ See AARP Initial Comments at 19.

⁴⁷ See NPRM at paras. 47, 74.

Wireless home phones present special disclosure issues because they are marketed as equivalent to landline service. The need to keep a phone charged prior to a storm, and the risks of poor call quality and dropped calls during emergency situations should all be fully understood by consumers who are being asked to replace their landlines with wireless home phones. This understanding will prepare consumers to make the right choices and do the proper planning to suit their needs.

E. Changes in Telephone Power Capabilities Require Extensive Consumer Education

The Commission requested comment on “whether market-based incentives alone could deliver backup power solutions” and the extent to which “providers compete on the basis of their ability to provide reliable and continuous service during commercial power outages.”⁴⁸ The back-up power information provided to consumers is but one disclosure included in the copious disclosures associated with Uverse IP telephone service.⁴⁹ Given the importance of educating the public on emergency preparedness and the changes associated with digital telephone service, the Commission should adopt a four year campaign to correspond with the four year period AT&T suggests is necessary to allow the carrier to transition to standardized back-up battery standards.⁵⁰ The Commission, public safety agencies, and the industry should engage in a concerted educational campaign so that consumers can assess and prepare for the trade-offs associated with the new technologies including changes to access to emergency services in a power outage, a national emergency, a local emergency or a personal emergency.

⁴⁸ NPRM at para. 47.

⁴⁹ *Id.* at 9, 13. See <http://www.att.com/esupport/article.jsp?sid=KB407650&cv=803> (“AT&T U-verse Voice, like other Voice over Internet Protocol (or VoIP) services, requires electrical power at your home to operate. If you have U-verse services (Voice, High Speed Internet, and/or TV), you must also have battery backup power for the Wi-Fi gateway to enable your U-verse services to function during a power outage. Your U-verse Voice service includes a Wi-Fi gateway Battery Backup Unit with an initial backup battery, to help maintain your U-verse Voice service in the event of a short disruption to your commercial power.”). For the extent of disclosures related to Uverse Voice, see <http://www.att.com/esupport/main.jsp?cv=814>. (Accessed March 5, 2015).

⁵⁰ Comments of AT&T at 14.

While consumers may not be aware that VoIP and wireless service operate differently from traditional landline telephony in a commercial power outage, carriers have no incentive to inform consumers of this deficiency or to correct it. This is a classic case of “market failure,” where the sellers’ interest is not aligned with consumers’ interests. To ensure that the public understands the implications of the transition to digital telephone service, the Commission should initiate a nationwide public information campaign to inform the public that the new networks will not operate in a commercial power outage and the need to obtain and understand back-up power equipment.⁵¹

The public information campaign around digital TV transition is acknowledged as a success.⁵² A similar campaign led by the Commission and by public safety agencies should be initiated to prepare the public for the changed capability of the new networks to operate in a power outage. Carriers should be required to communicate consistent information about back-up power in the new networks well before requesting to discontinue copper or TDM service and this information should not be part of marketing materials, sales contacts, or service advertisements.⁵³

⁵¹ A public information campaign about back-up power is supported by several commenters. See Comments of the Rural Broadband Policy Group at 4-5; Comments of the National Association of State 911 Administrators at 2-3; Comments of Environment and Energy Institute at 3-4; Comments of the City of New York at 2; Comments of ADT d/b/a ADT Security Systems 8.

⁵² See, e.g., <http://www.nielsen.com/us/en/insights/news/2009/the-switch-from-analog-to-digital-tv.html> (accessed March 9, 2015); Statement of Commissioner Jonathan S. Adelstein on the Digital Television Transition, June 13, 2009. https://apps.fcc.gov/edocs_public/attachmatch/DOC-291389A1.pdf (accessed March 9, 2015).

⁵³ Currently back-up power considerations are described in the description of Uverse equipment. <https://www.att.com/shop/home-phone.html> On the web page with Voice “plans and packages, the terms of service show back-up battery information as one of thirty features in the “dare to compare” table.

IV. SERVICE QUALITY PROBLEMS AFFECTING SERVICES THAT RETAIN COPPER INFRASTRUCTURE REQUIRE THAT COPPER RETIREMENT AND OTHER TECHNOLOGICAL CHANGES BE INCLUDED IN THE SECTION 214 PROCESS.

The Commission requests comment on the definition of “Copper Retirement.”⁵⁴ Despite the use of the term “copper retirement,” and the Commission’s discussion about the actual physical removal or discontinuation of the copper facilities (loops, subloops and the feeder portion of the loop),⁵⁵ most commenters include discontinuation of TDM service even if the underlying copper loops continue to be used.⁵⁶ While some of the current changes in telephone service involve the replacement of the copper loop with fiber or other Internet infrastructure, in the AT&T service areas parts of the copper infrastructure, specifically the local loop, are being preserved for telephone service as well as for Internet and video.⁵⁷ As the Commission has recognized in other dockets, even if copper infrastructure continues to be used, telephone service is undergoing changes that may eliminate some functionalities (i.e. an independent power source, use of some medical monitoring devices, use of some fax machines).⁵⁸

The shift to IP telephone service, or Voice over Internet Protocol (VoIP) service, raises the same service issues as when copper infrastructure is retired: degraded service resulting from poor maintenance; changes in price, terms and conditions; and loss of particular functionalities.⁵⁹ The consumer experience related to the retirement of copper facilities and the switch to IP telephone service is the same. Accordingly, the consumer protections applicable to copper

⁵⁴ NPRM at paras. 49-54.

⁵⁵ NPRM at paras. 51-52.

⁵⁶ Comments of Public Knowledge at 30; Comments of CWA at 20-21; Comments of the Ad Hoc Telecommunications Users Committee at 9-10.

⁵⁷ See http://www.att.com/Common/about_us/files/pdf/HowUverseIsDelivered_2-22.pdf (graphic showing how U-verse is delivered).

⁵⁸ See, e.g., GB Docket No. 13-5 et al.

⁵⁹ See GN Docket No. 13-5 et al., People of the State of Illinois and People of the State of New York, Comments on Trials and Data Collection, Amended April 1, 2014.

retirements should also apply to situations where analog telephone service (or circuit switched service or TDM service) is replaced by VoIP or digital service when the copper loop is retained.

A. Examples of Service Quality Deficiencies And Price Increases Associated With The Switch To Digital Telephone Demonstrate The Need For Commission Oversight Of The Transition.

The NPRM asks whether there is a factual basis for finding that “incumbent LECs in some circumstances [are] neglecting copper to the point where it is no longer reliably usable.”⁶⁰ In Illinois, the Office of the Attorney General’s Consumer Fraud Division has received multiple complaints indicating that facilities are not being maintained. Illustrations of those complaints were included in the Comments the People of the State of Illinois submitted on April 1, 2014 in the Matter of Technology Transitions.⁶¹ Since that filing, there have been additional complaints about service quality. For example, one consumer noted that she has had AT&T telephone service “for years and years” and wanted to “keep the House phone.”⁶² She kept “calling AT&T and never getting the phone fixed.” Although a repair man came out, her problems persisted. Ultimately she gave up and tried to cancel the service, but AT&T continued to bill her.⁶³

Another consumer expressed frustration with an automatic renewal of her contract for digital telephone and the assessment of early termination fees. She pointed out that “there was a problem with faxing, telephone service and internet service, which AT&T could not or did not repair, although there were many attempts online.”⁶⁴ She added that “my telephone line acted as a ‘party line,’ rather than a private line, and even though ATT sent many technicians to check

⁶⁰ NPRM at para. 53.

⁶¹ GN Docket No. 13-5 et al., People of the State of Illinois and People of the State of New York, Comments on Trials and Data Collection, Amended April 1, 2014.

⁶² IL File No. 2014-CONSC-00376624 (May 27, 2014).

⁶³ *Id.*

⁶⁴ IL File No. 2014-CONSC-00373825 (April 7, 2014). See also IL File No. 2014-CONSC-00379102 (July 14, 2014)(random name appears on Caller-ID).

out the situation, they could not find the problem. This situation did not just affect me, it affected my neighbor also (... next door).”⁶⁵ Another complainant’s service quality problems started with the new Uverse services, including “service interruptions, missed and unnecessary service appointments, unauthorized changes to my phone services, long wait times on the phone, unending transfers to department that have not solved my issues, disconnection of my fax number which AT&T have not restored, confusions regarding my bill, and disconnect notices on a cancelled account.”⁶⁶ Another customer had difficulty with DSL service, but repairs somehow led to the disconnection of telephone service, and when it was connected, “it was not the correct phone number.”⁶⁷ Price increases for telephone and Internet access services have also been a concern.⁶⁸

In New York, one Verizon consumer reported that both her telephone and DSL service repeatedly shut down either partly or completely.⁶⁹ Another consumer reported that she did not have a working landline service for two straight months, causing her to lose clients in her home-based business. That complainant also expressed concern about her and her neighbor’s inability to make calls in case of an emergency. She reported that Verizon repeatedly broke promises that it would fix the problem.⁷⁰ An elderly, disabled, and indigent complainant reported that “[f]or two Years I hear noise Hum, and Pitch to the Telephone Line and I never am able to make a phone call. The Internet, never works, It takes 1 hour to change a page”⁷¹ One business reported that, for three months, it had “little or no service” on its five telephone lines, noting that

⁶⁵ *Id.*

⁶⁶ IL File No. 2014-CONSC-00389373 (December 11, 2014).

⁶⁷ IL File No. 2014-CONSC-00375662 (May 9, 2014).

⁶⁸ IL File No. 2014-CONSC-00390093 (Nov. 25, 2014) (a company representative “told me again if I don’t switch (from DSL to U Verse) we will be cut off.” “I don’t understand why we are being strong armed into changing and because ... they are going to raise my rates 50%” (DSL price increased from \$24.50 to \$50.00)).

⁶⁹ NY File No. 2014-115621 (Jan. 16, 2014).

⁷⁰ NY File No. 2014-1170155 (May 2, 2014).

⁷¹ NY File No. 2014-1182804 (July 28, 2014).

“[w]hat service we had was spotty, with the dial tone missing from some lines, loud humming and crackling on others,” and that Verizon was unable to solve the problem.⁷²

It is not clear whether these problems were due to degradation and lack of repair of the copper loop, problems with a switch, or simply poor repair practices. In any event, the effect on the consumer is the same: their telephone service is no longer reliable and they spend significant time and money trying to obtain basic telecommunications services.

B. Service Quality Reporting Is Needed To Assess The Extent Of Service Quality Problems.

The Commission also asks whether it should revise its rules to address inadequate maintenance.⁷³ While the Commission has historically maintained reporting on service quality, the carriers have been relieved of filing service quality and infrastructure reports since 2008 when the Commission granted certain forbearance petitions.⁷⁴ The maintenance of the incumbent facilities may be a matter for state public utilities commissions.⁷⁵ However, some carriers have maintained that because VoIP is a digital signal using Internet Protocol, it is beyond state jurisdiction as an interstate service.⁷⁶ This jurisdictional issue must be resolved so that accountability, at either the state or the federal level, is preserved, and the high quality networks that Americans have long enjoyed are not lost when the technology used to provide telephone service changes.

⁷² NY File No. 2014-1162685 (Mar. 24, 2014).

⁷³ NPRM at para. 53.

⁷⁴ *In The Matter Of Service Quality, Customer Satisfaction, Infrastructure And Operating Data Gathering*, 23 FCC Rcd 13647 (2008). Carriers had filed service quality reports under ARMIS Report 43-05 and infrastructure reports under ARMIS Report 43-07 prior to the forbearance order. See also <http://www.fcc.gov/document/revision-armis-filing-procedures>.

⁷⁵ See, e.g., 83 Ill. Admin. Code Part 700.

⁷⁶ See Petition for Forbearance of the United States Telecom Association, FCC Docket No. WC 14-192 (October 6, 2014).

V. CONSUMER PROTECTIONS ARE CRUCIAL DURING THE TRANSITION.

As the Commission recognizes, it is clear that “consumers and other retail customers need to understand what is and is not happening during a copper retirement [or digital transition], and they need to understand their choices about service.”⁷⁷ The need for standardized disclosures is highlighted by consumers who switch to new digital service and then unexpectedly lose a function or have to incur costs to replace equipment. In its initial comments, New York City discussed the burdens placed on consumers who find that fax, medical monitoring, or security equipment is not compatible with the new network and must be replaced.⁷⁸ These situations are not limited to New York City.

In Illinois, one consumer complained that she “went to AT&T to ask a question and ended up agreeing to have U Verse installed. ... While the tech was still here [installing U Verse] someone tried to send me a Fax. He looked at my fax machine and explained to me that, ‘Oh, you will have to PURCHASE A DIGITAL FAX MACHINE.’ What on earth? When I spoke to a Sales Rep. and the subject came up about my fax line, I should have been asked or told then that my fax machine has to be digital in order for it to work. ... I have been stuck for 28 days: No Fax, No Internet, No home phone (only for 14 days).”⁷⁹ Another consumer was not told “that for some reason I cannot use my fax line [number omitted] and that I couldn’t ‘go back.’”⁸⁰

In New York, Verizon offers to substitute wireless Voice Link when it informs customers that repair of their wireline service will no longer be available. Even in areas far beyond Fire Island⁸¹ that were unaffected by Hurricane Sandy, Verizon has asked customers to substitute wireless Voice Link for wireline service without clearly disclosing all of the significant

⁷⁷ NPRM at para. 60.

⁷⁸ Comments of New York City at 6.

⁷⁹ IL File No. 2014-CONSC-00382821 (Sept. 10, 2014).

⁸⁰ IL File No. 2014-CONSC-00373671 (April 3, 2014).

⁸¹ See NPRM at para. 4 and footnotes 229-230.

differences in service, such as Voice Link’s inability to support DSL, alarm systems, medical alert devices, or fax machines.⁸² Indeed, Verizon has encouraged some consumers to replace wireline service with Voice Link wireless even though they lived in areas where limited cellular coverage makes wireless service unreliable.⁸³

A recurring theme is the need for information. The Commission correctly proposes a standardized notice to all consumers facing a change in service so that consumers know that they “will still be able to purchase existing service(s) to which he or she subscribes with the same functionalities and feature as the service he or she currently purchase’ if that statement is accurate.”⁸⁴ If some services or functionalities are no longer available, or if there are new, technical requirements such as the need for a *digital* fax machine or medical monitor as opposed to an older analog device, consumer notice is crucial. Consumers need to know if new telephone service will require them to replace their home equipment, increasing transaction costs and potentially disrupting employment or medical needs. Section 68.110(b) of the Commission’s rules addressing changes in network facilities properly requires notice to consumers if “such changes can reasonably be expected to render any customer’s terminal equipment incompatible with the communications facilities of the provider of wireline telecommunications, or require modification or alternation of such terminal equipment.”⁸⁵ Notice about retirement of facilities should include changes that render analog equipment obsolete even if the function can be provided if the customer buys digital equipment.

⁸² See NY PSC Case 13-C-0197, Emergency Petition of New York Attorney General Eric T. Schneiderman for an Order Preventing Verizon from Illegally Installing Voice Link Service in Violation of its Tariff and the Commission’s May 16, 2013 Order, filed June 26, 2013, <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={A3F0A269-8613-4437-AEB3-35ACCF6E5A47}>

⁸³ *Id.*

⁸⁴ NPRM at para. 65.

⁸⁵ NPRM at para. 70, referring to 47 C.F.R. 68.110(b)

Some carriers assert that they do not know what deficiencies consumers will experience with the new networks.⁸⁶ Clearly no carrier is expected to know the specific equipment or functionalities used at each residence. However, carriers do know (1) whether their *existing* systems support both analog and digital equipment and (2) whether their *new* systems will continue to support both analog and digital equipment. If the new system does not support analog equipment, a carrier should be obligated to include that fact in its notices to consumers so consumers can plan accordingly.

In addition to changes in technical requirements, mandated notice should also disclose changes in costs and terms and conditions associated with the change to digital service. The Commission asks about “upselling and customer education.”⁸⁷ While some customers may see price decreases, consumers often complain that prices increase without notice or that the promised prices are not provided.⁸⁸ Higher or inaccurate price information often leads to repeated discussions with customer service and more promises which may or may not be honored. Similarly, customers complain that they are not told about installation charges or are promised gift cards or rebates that do not materialize.⁸⁹

Another sore point is early termination charges. Unlike wireless service, landline telephone service has not traditionally been subject to early termination charges, and the verbal and online ordering systems utilized by the major carriers often lack clear disclosure of this item. When services are ordered in a bundle (telephone, internet and video), consumers need clear disclosure about whether there is an early termination charge, how large it is, and what triggers

⁸⁶ Comments of AT&T 39; Verizon Comments at 5-9 (listing benefits from technology change without reference to any reduction in functionality).

⁸⁷ NPRM at para. 71.

⁸⁸ IL File No. 2014-CONSC-00389574 (Dec. 11, 2014); IL File No. 2014-CONSC-00391548 (Jan. 15, 2015); IL File No. 2014-CONSC-00378336 (July 2, 2014).

⁸⁹ IL File No. 2014-CONSC-00373825 (April 7, 2014).

it. If early termination charges are imposed, conditions such as poor service quality or undisclosed changes in functionality should negate them. Customers who do not know about such charges cannot ask the appropriate questions or take appropriate action, but they risk large charges and credit problems.

In addition to notice to the consumers “affected by copper retirements,”⁹⁰ a more general public information campaign is necessary to begin to inform all potentially affected consumers about the changes that a digital telephone network will bring. This should be done before the crisis of the loss of traditional telephone service arises. Current point-of-sale disclosures are not sufficient or effective. Many consumers describe long conversations with customer service in which key terms are either not disclosed or lost in the swirl of all of the information and promotion of the sales call.

As the Commission suggested,⁹¹ a public information campaign, similar to the digital television (DTV) transition will give the public information so that they know what questions to ask when new services are offered or insisted upon.⁹² It can be expected that an entire region, rather than individual consumers, will be affected by the telephone digital transition, making community-wide information campaigns appropriate.

A public information campaign that involves non-interested parties, such as community groups or government offices, is generally more effective than direct mail from carriers. The DTV transition and the education efforts required of broadcasters is a reasonable model.⁹³

⁹⁰ NPRM at para. 65.

⁹¹ NPRM at para. 74.

⁹² IL File No. 2014-CONSC-00390093 (Nov. 25, 2014) (a company representative “told me again if I don’t switch (from DSL to U Verse) we will be cut off.” “I don’t understand why we are being strong armed into changing and because we don’t they are going to raise my rates 50%” (DSL price increased from \$24.50 to \$50.00)).

⁹³ NPRM at para. 74.

Further, this campaign should not await the scheduled retirement of copper or TDM switching – it should start now.

VI. CONCLUSION

For the foregoing reasons, the People of the State of Illinois through Attorney General Lisa Madigan and the People of the State of New York through Attorney General Eric Schneiderman, request that the Commission adopt the proposals stated above.

Respectfully submitted,

The People of the State of Illinois

The People of the State of New York

By Lisa Madigan, Attorney General

By Eric T. Schneiderman, Attorney General

_____/s/
Susan L. Satter
Public Utilities Counsel
100 West Randolph Street
Chicago, Illinois 60601
Telephone: (312) 814-1104
SSatter@atg.state.il.us

_____/s/
Kate Matuschak
Assistant Attorney General
120 Broadway
New York, New York 10271
Telephone: (212) 416-6189
kate.matuschak.ag.ny.gov

March 9, 2015